

HOW THE UNITED STATES CAN HELP THE DEMOCRATIC REPUBLIC OF THE CONGO COMBAT
ILLCIT FINANCIAL FLOWS (IFFS)

by
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Abstract

Illicit financial flows (IFFs) are a global issue that is estimated to take from the world \$2 trillion in revenue. The African continent is particularly susceptible, as over \$836 billion of IFFs comes from sub-Saharan Africa. The Democratic Republic of the Congo (DRC) is particularly vulnerable due to its low regulation and high corruption, as well as the DRC's cash economy that mostly deals in US dollars. DRC has also had several recent high-profile cases of individuals who have been able to circumvent United States (U.S.) sanctions in the DRC, such as North Korean Pak Hwa Song and Hwang Kil Su, and Dan Gertler. The proposal outlined is for the U.S. Department of State and the U.S. Department of the Treasury to work with the DRC to help with their IFFs problem in four key steps. The four steps are: implement further sanctions, strengthen previously enacted sanctions in the DRC, increase DRC anti-corruption agreements on foreign aid and International Monetary Fund loans, and implement an Office of Trade Assistance program to increase the DRC's Anti-Money Laundering/Combating the Financing of Terrorism (AML/CFT) Framework. Now is a unique time in which the U.S.-DRC partnership is strong, and President Félix Tshisekedi has consolidated power away from his predecessor Laurent Kabila so increased regulation and reform in the DRC is possible. Ultimately, the recommendation is to enact this policy as it falls in line with U.S. policy goals and can be implemented through existing U.S. programs.

Advised By: Paul Weinstein Jr

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**MEMORANDUM FOR THE SECRETARY OF STATE, ANTONY J. BLINKEN AND SECRETARY OF
TREASURY, JANET YELLEN**

DATE: APRIL 20, 2021

FROM: SUZANNE TIMMERMAN

**SUBJECT: THE UNITED STATES SUPPORT FOR THE DEMOCRATIC REPUBLIC OF THE CONGO TO
COMBAT ILLICIT FINANCIAL FLOWS (IFFS)**

I. Action-Forcing Event

A recent 2020 report made by the United Nations Conference on Trade and Development (UNCTAD) stated that every year 86.6 billion USD leaves Africa due to illicitly acquired capital, also called illicit financial flows.¹

II. Statement of the Problem

Illicit financial flows (IFFs) are a global problem. Worldwide losses from IFFs are estimated by the UN Office on Drugs and Crimes (UNODC) at over \$2 trillion globally.² Every country should be concerned with IFFs, because IFFs are used to harm others and do not respect a country's border. Africa is affected more than other continents by illicit capital fleeing the continent. Compared to countries elsewhere, African countries are more susceptible to the impacts of IFFs due to low-

¹ Chloé Maurel, "Illicit financial flows hinder development in Africa – the UN must rise to the challenge of ending this," Equal Times, January 21, 2021, <https://www.equaltimes.org/illicit-financial-flows-hinder#.YBiY-ehKg2w>.

² Steven M. D'Antuono, "Combating Money Laundering and Other Forms of Illicit Finance: Regulator and Law Enforcement Perspectives on Reform," FBI, Nov. 29, 2018, <https://www.fbi.gov/news/testimony/combating-money-laundering-and-other-forms-of-illicit-finance>.

income countries' vulnerabilities. Capital flight between 2000-2015 was estimated at over \$836 billion from sub-Saharan Africa.³ While many parts of sub-Saharan Africa contribute to the overall problem, the Democratic Republic of Congo (DRC), due to its unique combination of factors, is a huge risk for IFFs. DRC has many overarching problems such as the lack of government transparency and corruption, which add to IFFs.

IFFs are defined as money which is "illegally earned, transferred, or used that crosses borders."⁴ This definition means that IFFs usually include illicit capital flight, tax evasion, illegal markets and mispricing shipments, corruption and theft.⁵ IFFs can be used by any number of individuals, companies, and/or state actors. IFFs are also used to fund militia groups and terrorist activities.⁶ Included in the IFFs are not only the practice of using the illegal acts that produce the funds, but also the money laundering that makes the money appear legitimate to be able to be used for other activities. For example, the money generated by IFFs activity in DRC is being used to fund ISIS activities in the east, as well as the local militia groups involved in violence in Eastern Congo who have been active in the region for over 20 years.⁷ Recently, Brookings Institute has named the DRC as one of the top four producers of illicit flows from sub-Saharan Africa, along with South Africa, Ethiopia, and Nigeria. Brookings estimates that these four countries send out over 50 percent of the total amount of IFFs from sub-Saharan Africa.⁸

³ UNCTAD, "Tackling Illicit Financial Flows for Sustainable Development in Africa," Economic Development in Africa Report 2020, United Nations Conference on Trade and Development, Geneva, 2020, https://unctad.org/fr/system/files/official-document/aldcafrica2020_en.pdf.

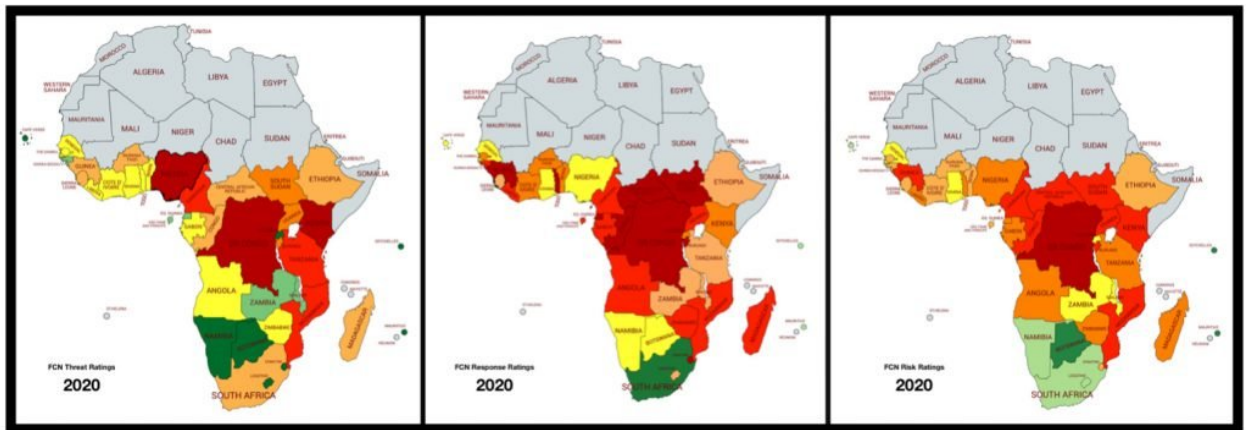
⁴ World Bank, "Illicit Financial Flows (IFFs)," World Bank, July 7, 2017, <https://www.worldbank.org/en/topic/financialsector/brief/illicit-financial-flows-iffs>.

⁵ UNCTAD, "Africa could gain \$89 billion annually by curbing illicit financial flows," September 28, 2020 <https://unctad.org/news/africa-could-gain-89-billion-annually-curbing-illicit-financial-flows>.

⁶ Maurel, "Illicit financial flows."

⁷ CFR InfoGuide Presentation, "The Eastern Congo," Council on Foreign Relations, <https://www.cfr.org/eastern-congo/#!/?cid=soc-at-interactive-the-eastern-congo-infoguide-121015>.

⁸ Payce Madden, "New trends in illicit financial flows from Africa," Brookings, March 2, 2020 <https://www.brookings.edu/blog/africa-in-focus/2020/03/02/new-trends-in-illicit-financial-flows-from-africa/>.



FCN Sub Saharan Africa Scoring Model							
Risk Score	Risk Rating	Risk Score	Risk Rating	Risk Score	Risk Rating	Risk Score	Risk Rating
1 - 19	Extremely - High Threat - Risk / Very Low Response	30 - 39	High Threat - Risk / Low - Moderate Response	50 - 59	Moderate Threat - Risk / Moderate to High Response	70 - 79	Low Threat - Risk / Very High Response
20 - 29	Very High Threat - Risk / Low Response	40 - 49	Moderate to High Threat - Risk / Moderate Response	60 - 69	Low to Moderate - Threat - Risk / High Response	80 - 100	Very Low Threat - Risk Extremely High Response

Figure 1: John Cusack, FCN Sub Saharan Africa Scoring Model, Financial Crime News, 2020

The Financial Crime News (FCN) Sub Saharan Africa Financial Crime Index – 2020 states that DRC is one of the highest risks of IFFs. DRC is specifically ranked as 14/100 on the FCN scale which is considered extra-high risk.⁹ A statement from the U.S. Department of State (State) says that while DRC is not considered a regional financial center, it has very little control of the borders with nine other countries and has corruption through all sectors of society.¹⁰ In the past DRC has remained under the radar, as it is not identified as one of the Financial Action Task Force (FATF) black or grey listed countries. IFFs organizations have had hard time collecting the total amount of IFFs in the DRC, as DRC has not participated in many of the studies done by international watch organizations. Recent groups, however, have started bringing to light the true depth of the issue such as Brookings, Sentry, and FCN. Not only is DRC not actively working with overall

⁹ John Cusack, "Sub Saharan Africa Financial Crime Country Index 2020," Financial Crime News, 2020, <https://thefinancialcrimenews.com/sub-saharan-africa-financial-crime-index-2020/>.

¹⁰ KnowYourCountry, "Congo DR," KnowYourCountry, 2019, <https://www.knowyourcountry.com/congodr1111>.

international groups for reporting due to the difficult nature of collecting data in the country, but DRC is also not implementing the key governmental safeguards that have helped other countries fight illicit activities. The combination of the previously mentioned factors means DRC is high risk, and the country is not doing everything they can to combat it when it occurs.¹¹

The FATF defines their Anti-Money Laundering/Combating the Financing of Terrorism (AML/CFT) framework for risk score as “bribery and corruption, financial transparency and standards, public transparency and accountability, legal and political risks.”¹² DRC demonstrates all of these factors, due to its unique makeup of low government regulation, inadequate tax system, low transparency, and high corruption, thereby creating a system that can be taken advantage of by different international actors.¹³ On the Transparency International Corruption Index, DRC scores 18/100 and on the World Governance Indicator – Control of Corruption indicator they score 3/100.¹⁴ DRC due to the weakness of the Congolese franc, does most of its transactions in U.S. dollars and have a mostly informal cash economy. DRC also has an inadequate judicial system and weak law enforcement, which leads to illicit activities avoiding punishment. The combination of these factors has resulted in international bad actors being able to take advantage of the situation in the country and do international harm.

High profile cases have occurred in DRC that highlight the seriousness of the problem. Some specific cases that have been highlighted are instances of large sums of money that could be

¹¹ FATF, “Jurisdictions under Increased Monitoring – 21 February 2020,” FATF, February 21, 2020, <http://www.fatf-gafi.org/publications/high-risk-and-other-monitored-jurisdictions/documents/increased-monitoring-february-2020.html>.

¹² Sanction Scanner, “Major Money Laundering Countries,” Sanction Scanner, 2020, [https://sanctionsscanner.com/blog/major-money-laundering-countries-251-~:text=The top 10 countries with, Yemen \(7.12\)](https://sanctionsscanner.com/blog/major-money-laundering-countries-251-~:text=The top 10 countries with, Yemen (7.12)).

¹³ IMF Country Focus, “Five Takeaways from Democratic Republic of the Congo's IMF Program,” International Monetary Funds, December 23, 2019, <https://www.imf.org/en/News/Articles/2019/12/20/na122019five-takeaways-from-the-democratic-republic-of-the-congos-imf-program>.

¹⁴ KnowYourCountry, “Congo DR.”

used against the U.S. in the future. North Korean citizens Pak Hwa Song and Hwang Kil Su were contracted by local government officials to use public funds on construction projects in 2018 and 2019. The North Koreans used this opportunity to create a bank account in Congo for money laundering U.S. dollars, which is against U.S. sanctions and shows the ease of access that malicious groups employ to get around the sanctions through DRC.¹⁵ Another example is when in 2017 the U.S. sanctioned Dan Gertler, an Israeli businessman who owns mines in DRC. Gertler has been connected to IFFs, such as money laundering, that lost DRC more than \$1.36 billion due to undervaluing assets. Again, even after the U.S. sanctions, he was allowed by Congolese banks to deal in U.S. dollars.¹⁶ Money laundering and profit from illicit activities is also connected to former Congolese President Kabila and other high ranking government officials. The largest dealings with these activities have circulated as much as \$140 million in misappropriated funds and included a Swiss-Angolan banker, a Chinese corporation, and an international lawyer.¹⁷

The DRC is also high risk due to its abundance of natural resources and energy source potential. In fact, it is the country's huge monetary source that makes it a prime candidate for illegal exploitation of natural resources. DRC is the world's second highest provider of diamonds and the highest exporter of cobalt ore.¹⁸ The UN report says that many African countries do not have "the means to verify the quantities of natural resources produced, relying instead on exporter declarations."¹⁹ The conflict gold mining in Eastern DRC has been particularly susceptible to

¹⁵ The Sentry, "Artful Dodgers New Findings on North Korean Sanctions-Busting in the Democratic Republic of Congo," The Sentry, January 2021, <https://cdn.thesentry.org/wp-content/uploads/2021/01/ArtfulDodgers-TheSentry-January2021.pdf>.

¹⁶ Global Witness, "Undermining Sanctions," Global Witness, January 2020, <https://www.globalwitness.org/en/campaigns/corruption-and-money-laundering/undermining-sanctions/>.

¹⁷ The Sentry, "Covert Capital: The Kabila Family's Secret Investment Bank," The Sentry, May 2019, <https://thesentry.org/reports/covert-capital/>.

¹⁸ Maurel, "Illicit financial flows."

¹⁹ UNCTAD, "Tackling Illicit Financial Flows."

natural resource fraud, as an estimated \$3 billion in gold was lost this year from gold mining. Gold mining is frequently used, according to the Sentry, as “a money laundering vehicle by armed groups, criminal networks, and corrupt actors, who can then mask its origins by melting it together with other gold.”²⁰ The Gertler case was also derived from the sale of natural resources.

Additionally, the current Covid-19 crisis has also led to economic disruption, consolidations of finances, and large bailouts that have exacerbated the issue of IFFs around the world. Criminals have quickly tried to exploit the crisis to commit fraud and other types of illegal financing activity.²¹ Counter-illicit financial flows measures, and reports have been delayed due to the crisis.²² There has been an increased risk of misappropriation of funds for local economic stimulus and foreign financial aid. Some organizations, like the International Monetary Fund (IMF), have used Covid-19 to attach anti-illicit financial activity measures to the agreement of additional Covid-19 aid. DRC was one of the countries that agreed to the additional measures, but these measures are not yet implemented on all IMF loans from all sources.²³ The specific concern for DRC is new financial assistance could be misused by corrupt government officials, as well as individuals obtaining government contracts and will not be used for the health sector, but instead used for illicit means.²⁴

²⁰ Sasha Lezhnev and Megha Swamy, “Understanding Money Laundering Risks in the Conflict Gold Trade From East and Central Africa to Dubai and Onward,” The Sentry, November 2020, <https://thesentry.org/reports/conflict-gold-trade/>.

²¹ FATF, “Money Laundering,” FATF, 2020, <https://www.fatf-gafi.org/publications/fatfgeneral/documents/covid-19-ml-tf.html>.

²² FATF, “Financial Action Task Force - Annual Report 2019-2020”, FATF/OECD, 2020, <https://www.fatf-gafi.org/publications/fatfgeneral/documents/annual-report-2019-2020.html>.

²³ IMF on Corruption and Covid-19, “How the IMF is Promoting Transparent and Accountable Use of COVID-19 Financial Assistance,” IMF, 2021, <https://www.imf.org/en/About/Factsheets/Sheets/2020/04/30/how-imf-covid19-financial-help-is-used>.

²⁴ FATF, “Money Laundering.”

The impact of these activities is widespread. IFFs are especially detrimental to the desperately needed economic development in the DRC. The domestic productive capacity of countries, including DRC, is being decreased due to IFFs. Capital flight leads to an inability for countries to fund their countries' public needs, such as services and infrastructure. By curbing the IFFs issue, countries will be able to fund health, education, environmental, and other critical needs that would especially help marginal persons.²⁵ For DRC, while some years of data are missing, the total amount of capital flight estimated is over 5 percent of its GDP that could instead be used to fund critical needs for the citizens.²⁶ The Gertler case lost DRC double the amount that DRC spent on health and education in the 2017 fiscal year.²⁷ From 1980 to 2018 sub-Saharan Africa received almost \$2 trillion in foreign aid, but lost \$1 trillion in IFFs.²⁸ Due to the impact which IFFs have on these development gains, the World Bank has stated that IFFs are rapidly becoming a key development challenge.

Many people involved in IFFs are multinational actors and the U.S. has a great stake in fixing the IFFs issue. The U.S. can work in the specific international region (the DRC) to help reduce the global problem. The UNCTAD report suggests that developed and developing countries need to share the responsibility of this issue. In fact, the UNCTAD report goes as far as to say, "many African governments do not benefit from a significant portion of their international trade transactions and experience significant losses in capital and foreign exchange."²⁹ The UN 16th Sustainable Development Goal asks member states to strive to reduce IFFs by 2030.³⁰ DRC is a

²⁵ Maurel, "Illicit financial flows."

²⁶ UNCTAD, "Tackling Illicit Financial Flows."

²⁷ TV5Monde Afrique, "RD Congo : révélations sur un réseau de blanchiment d'argent," January 13, 2021, <https://afrique.tv5monde.com/information/rd-congo-revelations-sur-un-reseau-de-blanchiment-dargent>.

²⁸ Payce Madden, "New Trends."

²⁹ UNCTAD, "Tackling Illicit Financial Flows."

³⁰ United Nations, "Global Programme against Money Laundering," UN Office on Drugs and Crime, <https://www.unodc.org/unodc/en/money-laundering/global-programme-against-money-laundering/.html>.

vulnerable country for IFFs as previously outlined, and it would be a benefit to the DRC, as well as the world, to combat this matter. As the UN report says, the IFFs situation needs to be mitigated at the global level. The U.S. can move forward with the DRC on IFFs, because while there is no UN convention on IFFs, there are U.S. programs that help with this topic.

III. History

IFFs are a matter in which the U.S. and DRC can cooperate. On August 17, 2020, the U.S. has identified some of the problems the DRC has and how the U.S. can help. A bipartisan group of the Senate Foreign Relations Committee sent a letter to the previous Secretary of State Mike Pompeo and the previous Secretary of the Treasury Steven Mnuchin to help DRC undertake anti-IFFs measures, as well as other reform.³¹ Many of these measures were contingent on President Félix Tshisekedi being further open to reform, which in the last year it seems Tshisekedi has been making strides. The measures proposed in the letter have not yet been enacted upon. The U.S. should further be concerned with the problem of those under U.S. sanctions being able to circumvent them by going to the DRC. Several individuals and companies, like the North Koreans, Gertler, and more have been able to exploit these weaknesses.³² In the case of Gertler, however, President Trump quietly eased sanctions on him right before leaving office, though Gertler is still heavily involved in illegal financing and corruption in mining and oil.³³ Gertler hired the same lawyer who defended Trump in his 2020

³¹ United States Senate Committee on Foreign Relations, "Risch, Menendez Lead Colleagues In Encouraging Administration To Press For Structural Reform In DRC," United States, Congress, Senate, Committee on Foreign Relations, August 17, 2020, <https://www.foreign.senate.gov/press/chair/release/risch-menendez-lead-colleagues-in-encouraging-administration-to-press-for-structural-reform-in-drc>.

³² Global Witness, "Undermining Sanctions."

³³ Ibid.

Senate impeachment trial to get the waiver, which giving that waiver was generally decried as the incorrect move from Congress and international observers.³⁴ U.S. sanctions are very impactful in a dollarized economy country. Many of the offenders travel to western countries and have bank accounts overseas, so sanctions take away their ability to do these international transaction.³⁵

Illicit Financial Flows is a term created in the 1990s to wholly encompass the different activities from the illegal acts, the funds from those acts, and funds for illegal purposes. The World Bank explicitly singles out developing countries as particularly susceptible. There are several international organizations that are working on the IFFs problem, such as the FATF and the UNODC.³⁶ The FATF issues recommendations and standards to help authorities combat global money laundering and terrorist financing.³⁷ DRC, while not directly under FATF, is a part of their associate member group called The Task Force on Money Laundering in Central Africa (Groupe d'Action contre le blanchiment d'Argent en Afrique Centrale (GABAC)).³⁸ The GABAC website only has reports from the Republic of Congo, Central African Republic (CAR), Cameroon, and Gabon from 2013-2015. New international reports are needed and especially one from DRC.³⁹ The most common internationally accepted controls for IFFs are the standard AML/CFT framework characterized by the IMF and the previously mentioned organizations.⁴⁰ Example

³⁴ Nick Wadhams, Saleha Mohsin, and Michael Kavanagh, "U.S. Likely to Undo Israeli Billionaire's Sanctions Reprieve," February 3, 2021, <https://www.bloomberg.com/news/articles/2021-02-03/house-democrats-urge-yellen-to-reinstate-gertler-sanctions>.

³⁵ United States Senate Committee on Foreign Relations, "Risch, Menendez."

³⁶ World Bank, "Illicit Financial Flows."

³⁷ FATF, "Who we are," FATF, 2020, <https://www.fatf-gafi.org/about/whoweare/>.

³⁸ FATF, "GABAC," FATF, 2020, <https://www.fatf-gafi.org/pages/gabac.html>.

³⁹ GABAC, "Rapports D'évaluation Mutuelle," GABAC, 2015, <http://spgabac.org/rapports-devaluation-mutuelle/>.

⁴⁰ IMF, "Anti-Money Laundering/Combating The Financing Of Terrorism (AML/CFT): Reference Materials," IMF, <https://www.imf.org/external/np/leg/amlcft/eng/aml4.htm#law>.

laws and standards are given by the IMF, and recently it has started adding these as a requirement for country loans.⁴¹

One of the major contributing factors to the DRC's risk of IFFs is bribery and corruption. Corruption is rampant throughout all public sectors going to the highest levels. IFFs tend to be linked to tax evasion and illegally hiding income.⁴² The tax administration is considered inefficient and does not have the resources to punish companies that take advantage the weaknesses. A case highlighting this inadequacy was given on the Risk & Compliance Portal. The Risk & Compliance Portal outlined someone who tried to decry a multinational company running a tax evasion scheme led to retaliation against the whistleblower, not the company.⁴³ The second major issue for the DRC is public transparency and accountability. The Organisation for Economic Co-operation and Development (OECD) has a Convention of Mutual Administrative Assistance in Tax Matters which is used to mitigate the tax fraud and evasion in a country; however, the DRC has not signed on to the above stated convention or provided data, unlike many of its neighboring countries who have signed.⁴⁴ The DRC ranks 135 out of 157 on the Human Capital Index, with an average school attendance at 9.2 years.⁴⁵ The country has many issues which stem from low infrastructure, such as a low funded healthcare system and public education system that exacerbates the problems already in the city. The DRC is currently dealing with another Ebola outbreak as well as many other diseases.⁴⁶ From the congressional letter

⁴¹ IMF on Corruption and Covid-19, "COVID-19 Financial Assistance."

⁴² World Bank, "Illicit Financial Flows."

⁴³ GAN Integrity, "DR Congo Corruption Report," Risk & Compliance Portal, August 2020, <https://www.ganintegrity.com/portal/country-profiles/democratic-republic-of-the-congo/>.

⁴⁴ OECD, "Convention on Mutual Administrative Assistance in Tax Matters," September 2020, OECD, <https://www.oecd.org/ctp/exchange-of-tax-information/convention-on-mutual-administrative-assistance-in-tax-matters.htm>.

⁴⁵ World Bank, "Illicit Financial Flows."

⁴⁶ Disease outbreak news, "Ebola virus disease – Democratic Republic of the Congo," World Health Organization (WHO), February 10, 2021, <https://www.who.int/csr/don/10-february-2021-ebola-drc/en/>.

“the country’s new leadership has yet to meaningfully curb high-level corruption, continuing state capture by former President Joseph Kabila and his acolytes, and systematic violence perpetuated by state security forces and their armed proxies in the east.”⁴⁷

The DRC, the second largest country in Africa, is about one-fourth the size of the U.S. and has nine border countries. The many porous borders also contribute to the capital flight. These borders, especially in the east with daily uncontrolled crossing, are where other countries get involved in the DRC conflicts and financial flow disputes. The nine countries that border DRC are: Burundi, Rwanda, Tanzania, and Uganda to the east; Central African Republic and South Sudan to the north; Angola and Zambia to the south; and the Republic of Congo to the west.⁴⁸ All of these countries have had conflict issues which inevitably involve their neighboring countries. The violence in Eastern DRC originated when Laurent Kabila’s rebellion toppled the previous dictator’s regime. Even though Kabila’s rebellion was an internal DRC struggle, the rebellion was backed by Rwanda and Uganda.⁴⁹ Additionally, troops from Angola, Chad, Namibia, Sudan, and Zimbabwe helped support the early Kabila regime from other insurrection attempts.⁵⁰

Eastern DRC has more than 100 active militant groups, including those from neighboring countries such as Rwanda and Uganda.⁵¹ The Eastern DRC is also where many of Congo’s minerals and large farmland resources are located, but the ongoing conflict allows bad actors to take advantage of the Eastern DRC region instead of the country and its citizens reaping the

⁴⁷ United States Senate Committee on Foreign Relations, 2020.

⁴⁸ One World – Nations Online, “Political Map of Democratic Republic of the Congo,” https://www.nationsonline.org/oneworld/map/dr_congo_map2.htm.

⁴⁹ CIA World Factbook, “Congo, Democratic Republic of the,” CIA, February 24, 2021, <https://www.cia.gov/the-world-factbook/countries/congo-democratic-republic-of-the/#terrorism>.

⁵⁰ CIA World Factbook, “Congo.”

⁵¹ Ibid.

benefit.⁵² The interconnectedness of this region also means that working on IFFs in the DRC will help all countries in the Great Lakes region. There are reports that the Islamic State of Iraq and ash-Sham (ISIS) – Central Africa, also known as ISIS-DRC, have been identified as working in Eastern DRC with local militant groups.⁵³ ⁵⁴ President Tshisekedi's government in 2019, at the same time as committing to a new U.S.-DRC relationship, joined the U.S.-led Global Coalition to Defeat ISIS.⁵⁵ Because of the multinational complicated nature of the Eastern DRC region, the previous U.S. administration had a position called the Special Envoy for the Great Lakes.⁵⁶ The previous person was Peter Pham, until he was changed to be the special envoy for Africa's Sahel region in March 2020. The UN appointed Huang Xia, a Chinese citizen, as a Special Envoy to the Great Lakes.⁵⁷ A new United States Special Envoy for the Great Lakes has not yet been appointed.⁵⁸ The UN additionally brokered a deal in the Eastern area called Peace, Security and Cooperation Framework that 11 countries in the region signed, but violence still persists.⁵⁹ The violence in the Eastern DRC is why the UN peacekeeping Mission in DRC (MONUSCO) is the largest peacekeeping mission in the world.⁶⁰ Not only is MONUSCO the largest mission, the U.S. is the largest financial backer of MONUSCO.⁶¹

⁵² CFR InfoGuide Presentation, "Eastern Congo."

⁵³ CIA, "Terrorist Organizations," CIA, <https://www.cia.gov/the-world-factbook/references/terrorist-organizations/>.

⁵⁴ Rukmini Callimachi, "ISIS, After Laying Groundwork, Gains Toehold in Congo, The New York Times," April 20, 2019, <https://www.nytimes.com/2019/04/20/world/africa/isis-attack-congo.html>.

⁵⁵ Bilateral Relations Fact Sheet "U.S. Relations With Democratic Republic of the Congo," U.S. Department of State Bureau of African Affairs, April 15, 2020, <https://www.state.gov/u-s-relations-with-democratic-republic-of-the-congo/#:~:text=The%20Privileged%20Partnership%20for%20Peace,major%20investor%20and%20trading%20partner.&text=Leading%20DRC%20exports%20to%20the,beans%2C%20propane%2C%20and%20tantalum>.

⁵⁶ Office of the Special Envoy for the Great Lakes Region of Africa, "Our Mission," U.S. Department of State, <https://www.state.gov/bureaus-offices/special-envoy-for-the-great-lakes-region-of-africa/>.

⁵⁷ United Nations, "Special Envoy Huang Xia Of The Great Lakes Region Visits Several Countries To Discuss Matters Of Peace, Security And Development," Office of the Special Envoy for the Great Lakes, October 8, 2020, <https://ungreatlakes.unmissions.org/special-envoy-huang-xia-great-lakes-region-visits-several-countries-discuss-matters-peace-security>.

⁵⁸ Humeyra Pamuk, "U.S. creates new envoy position to counter rising terrorism in Sahel," Reuters, March 6, 2020, <https://www.reuters.com/article/us-usa-sahel/u-s-creates-new-envoy-position-to-counter-rising-terrorism-in-sahel-idUSKBN20T2ZJ>.

⁵⁹ Special Envoy for the Great Lakes Region, "About," UN Political and Peacebuilding Affairs, <https://dppa.un.org/en/mission/special-envoy-great-lakes-region>.

⁶⁰ BBC, "DR Congo peacekeeping: UN votes to scale down mission," BBC, March 31, 2017, <https://www.bbc.com/news/world-africa-39456884>.

⁶¹ CFR InfoGuide Presentation, "Eastern Congo."

The DRC has historically been mismanaged and exploited for its resources. DRC, as with many other African colonized nations, already has a history of exploitation which makes it a ripe candidate for IFFs. As Maurel for the Equal Times put it, IFFs are “rooted in the exploitative history of colonialism”, which is evidenced in the DRC’s history. IFFs are a worldwide problem that the U.S. can help mitigate by reducing some of the risks in the DRC. As the CIA World Factbook overview puts it the “systemic corruption since independence in 1960, combined with countrywide instability and intermittent conflict that began in the early-90s, has reduced national output and government revenue, and increased external debt.”⁶² Originally a Belgian colony, DRC got its independence in 1960, but even then, the country was rife with instability. When the Belgians left, a military leader named Mobutu Sese Seko took advantage of the confusion to stage a takeover in 1965.⁶³ Mobutu spent 32 years in power up until the late 1990s embezzling large amounts of the country’s money, including American investment and CIA activities in the country. It is estimated that in the decades he was in power he amassed about \$5 billion.⁶⁴ Mobutu’s IFFs are important because according to Tax Justice Network, the DRC’s state budget in 2007 “some 50 per cent – was allocated to servicing public debts incurred by corrupt lifetime dictator Mobutu Seso-Seko.”⁶⁵

To understand the current important political battle between President Tshisekedi and former President Kabila, a very brief understanding of how Kabila came to power is needed. In the late

⁶² CIA World Factbook, “Congo.”

⁶³ BBC, “Democratic Republic of Congo profile – Timeline,” BBC, January 10, 2019, <https://www.bbc.com/news/world-africa-13286306>.

⁶⁴ John-Thor Dahlburg, “Nation Suffered as Dictator Drained Riches,” Los Angeles Times, May 17, 1997, <https://www.latimes.com/archives/la-xpm-1997-05-17-mn-59626-story.html>.

⁶⁵ Khadija Sharife, “Tax Us If You Can: Why Africa Should Stand up for Tax Justice,” Tax Justice Network – Africa, January 2011, https://www.taxjustice.net/cms/upload/pdf/tuiyc_africa_final.pdf.

1990s, Laurent Kabila staged his rebellion, successfully overthrowing the Mobutu regime. In January 2001, Laurent Kabila was assassinated, and his son Joseph Kabila was named his successor. Joseph Kabila was officially elected to office in 2006.⁶⁶ Another election with highly disputed results in November 2011 reelected Kabila as president. The DRC constitution prohibited Kabila to run for a third time, but the DRC delayed the elections from November 2016 to December 2018.⁶⁷ The delay and subsequent irregularities of the election caused protests and tensions across the country. The Kabila family also has a history of laundering money from the country. The Kabila family in particular made a big move through an investment firm called Kwanza Capital to try and take over the \$5 billion banking industry.⁶⁸ While the Kabila bid was ultimately not successful, the previous president and his family still own or partially own more than 80 businesses and companies in DRC and abroad as well as large amounts of land and mining rights.⁶⁹ The Kabila family was money laundering millions from misappropriations of public funds.⁷⁰ Since Kabila and his fellow party members were benefiting from the lack of regulation and corruption, this previous presidential administration was disinclined to crackdown on IFFs.

In January 2019, Félix Tshisekedi from a Kabila opposition party was elected in a contested election. Many thought that Kabila would arrange the vote to support his successor, but instead it was reported that Tshisekedi reached a behind the scenes deal between the two. A third opposition leader, Martin Fayulu is widely believed to be the winner in the election; however,

⁶⁶ Britannica, "History – DRC," Britannica, <https://www.britannica.com/place/Democratic-Republic-of-the-Congo/The-Democratic-Republic-of-the-Congo>.

⁶⁷ CIA World Factbook, "Congo."

⁶⁸ Event Recap by Africa Center, "Covert capital: Illicit finance in the DR Congo," May 22, 2019, <https://www.atlanticcouncil.org/commentary/event-recap/covert-capital-illicit-finance-in-the-dr-congo/>.

⁶⁹ Michael Kavanagh and Dan McCarey, "All the President's Wealth: The Kabila Family Business," Congo Research Group: Pulitzer Center, July 20, 2017, <https://pulitzercenter.org/stories/all-presidents-wealth-kabila-family-business>.

⁷⁰ Event Recap by Africa Center, "Covert capital."

his challenge to the election failed and Tshisekedi was elected President.⁷¹ One proposal for strengthening government regulations has to do with making sure the democratic process and elections are fair and free. The election committee National Independent Electoral Commission (CENI) should be separate from the government's political influence and the election openly and fairly carried out, which will strengthen the integrity of their institutions.⁷²

Despite the election irregularities, the alleged agreement which Kabila and Tshisekedi made came to fruition after the election. While Tshisekedi is from one of the oldest Kabila opposition parties, and has general popular support, Kabila's party still gained a huge majority in the country's parliament. Kabila's party gaining much of parliament caused Tshisekedi to enter a power-sharing agreement with Kabila that severely limited Tshisekedi's power.⁷³ After two years of this ongoing power struggle, in December 2020, President Tshisekedi was able to consolidate his ruling coalition away from the previous 18-year ruling Kabila.⁷⁴ Moreover, Tshisekedi was able to declare the pact failed and oust the pro-Kabila prime minister and leaders of both houses of Parliament.⁷⁵ President Tshisekedi being able to consolidate power was surprising and creates an unprecedented opportunity for Tshisekedi to deliver on the platform of anti-corruption and to be able to pass some of the legislation that is greatly needed in the country. The country has poor regulation and follow through on combating illegal finance activity up until now contributing to the country's legal and political risks for IFFs.

⁷¹ Mvemba Phezo Dizolele and Pascal Kalume Kambale "IRI Expert Analyzes Power Shift in the Democratic Republic of the Congo for Foreign Affairs", International Republican Institute, February 24, 2021, <https://www.iri.org/resource/iri-expert-analyzes-power-shift-democratic-republic-congo-foreign-affairs>.

⁷² United States Senate Committee on Foreign Relations, "Risch, Menendez."

⁷³ Dizolele and Kambale, "IRI Expert."

⁷⁴ Reuters Staff, "New parliament majority backs Congo President Tshisekedi," Reuters, January 28, 2021, <https://www.reuters.com/article/congo-politics-president/new-parliament-majority-backs-congo-president-tshisekedi-idUSL8N2IN2H3>.

⁷⁵ Dizolele and Kambale, "IRI Expert."

President Tshisekedi is currently the new African Union head, making them a strategic partner for the U.S. with whom to work.⁷⁶ Desire for better regulation and less capital flight is felt by the Congolese people just as well as the rest of the world. DRC has some active civil societies which support any measure that will help the country such as The Centre de Recherche sur l'Anti-Corruption (CERC) which is a Congolese civil society organization that wants to support "active engagement on transparency and accountability".⁷⁷ The DRC consistently ranks as one of the poorest nations in the world. Better regulation could help their financial standing.

The DRC has made some positive strides towards some regulation, but they still need more measures put in place to fix the complex problem in the country. According to The Extractive Industries Transparency Initiative (EITI) which is the standard for managing oil, gas, and mineral resources, DRC has already started working towards the mining standards. EITI does note though that revenues were not given out according to the regulatory framework.⁷⁸ Vital Kamerhe, Tshisekedi's former chief of staff, in 2020 was convicted of embezzlement and corruption, and he was sentenced to 20 years in prison. Kamerhe is the highest-level public official who has been found guilty of corruption.⁷⁹ Another positive occurrence is a Congolese bank, BGFIBank DRC, is one of the first banks in sub-Saharan Africa to receive an AML 30000

⁷⁶ Press Release, "President Felix-Antoine Tshisekedi Tshilombo, Takes Over as the New Chairperson of the African Union (AU) for 2021," African Union, February 06, 2021, [https://au.int/en/pressreleases/20210206/president-felix-antoine-tshisekedi-tshilombo-takes-over-new-chairperson#:~:text=Press%20releases-,President%20Felix%20Antoine%20Tshisekedi%20Tshilombo%2C%20Takes%20Over%20as%20the%20New,African%20Union%20\(AU\)%20for%202021&text=The%20Heads%20of%20State%20and,Union%20\(AU\)%20have%20elected%20H.E.](https://au.int/en/pressreleases/20210206/president-felix-antoine-tshisekedi-tshilombo-takes-over-new-chairperson#:~:text=Press%20releases-,President%20Felix%20Antoine%20Tshisekedi%20Tshilombo%2C%20Takes%20Over%20as%20the%20New,African%20Union%20(AU)%20for%202021&text=The%20Heads%20of%20State%20and,Union%20(AU)%20have%20elected%20H.E.)

⁷⁷ "CERC," CERC, <http://www.anticorruption-center.org/>.

⁷⁸ ITIE RDC, "Overview," EITI, <https://eiti.org/democratic-republic-of-congo#eiti-reports-and-other-key-documents>.

⁷⁹ Human Rights Watch, "Democratic Republic of Congo," Human Rights Watch, 2020, <https://www.hrw.org/world-report/2021/country-chapters/democratic-republic-congo>.

anti-money laundering certification.⁸⁰ BGFIBank DRC is a Gabon-based major banking operation in DRC. BGFIBank's certification is a promising achievement for DRC and Central Africa as a whole. AML 30000 is an "evaluation and endorsement of a company's risk assessment, know-your-client processes, document retention, suspicious activity reporting, governance, IT and resources."⁸¹ In December 2020, Donald Trump issued a proclamation of reinstating the DRC to the African Growth and Trade Act (AGOA).⁸² The reinstatement is a U.S. acknowledgement that DRC is making positive efforts to meet the requirements which include strengthening "the DRC's democratic institutions, protect human rights, and combat corruption."⁸³ AGOA is a tool for U.S. economic policy that lets admitted countries have duty-free access for potentially thousands of products.

The Congolese economy is dependent on international donations, so the international community has a great deal of influence over the finance of the country. This year, the Covid-19 pandemic has caused an economic crisis worldwide, so it is estimated activity will potentially fall by about 2 percent, furthering Congolese dependency on international loans and aid.⁸⁴ The economy has been slowing since 2019, because of a drop in commodity prices.⁸⁵ The IMF has sent an additional \$363.27 million disbursement to the DRC in response to the COVID-19 pandemic.⁸⁶ As the Congo economy is so dependent, they are more likely to listen to outside

⁸⁰ Andrew Mizney, "DRC bank gets anti-money laundering certification," African Law & Business, April 1, 2021 <https://iclg.com/alb/15343-drc-bank-gets-anti-money-laundering-certification>.

⁸¹ Mizney, "DRC bank."

⁸² STL News, "Reinstatement of the Democratic Republic of the Congo to AGOA," STL, December 30, 2020, <https://stl.news/reinstatement-of-the-democratic-republic-of-the-congo-to-agoa/>.

⁸³ STL News, "Reinstatement."

⁸⁴ The World Bank, "Africa's Pulse: In Sub-Saharan Africa, Strong Policies Can Support Economic Recovery Post-COVID-19," The World Bank, October 8, 2020, <https://www.worldbank.org/en/publication/africa-pulse>.

⁸⁵ The World Bank, "The World Bank in DRC," The World Bank, May 4, 2020, <https://www.worldbank.org/en/country/drc/overview#1>.

⁸⁶ Press Release no. 20/182, "IMF Approves US\$363.27 Million Disbursement to the Democratic Republic of Congo to Address the COVID-19 Pandemic," International Monetary Fund, April 22, 2020, <https://www.imf.org/en/News/Articles/2020/04/22/pr20182-democratic-republic-of-congo-imf-approves-disbursement-to-address-covid-19>.

countries. Since the election of Tshisekedi, the U.S. has had great relations with the DRC. In 2019, the U.S. released the U.S.-DRC Privileged Partnership for Peace and Prosperity (PP4PP) which was installed to work with the U.S. in “a joint commitment to work together on areas of mutual concern.”⁸⁷ The DRC has many complex issues, but by the U.S. helping the DRC to strengthen their regulation framework to combat IFFs, the U.S. can aid the DRC and the world at the same time.

IV. Policy Proposal

While the DRC has a multitude of problems that contribute to IFFs, there are still precise measures that the U.S. can do to help reach the goal of reducing IFFs. The specific goal would be to reduce the AML Risk in the DRC by 2030 and increase the score to a 30/100 which would classify the DRC as High Risk/Moderate response instead of Extremely High Risk/Very Low response.⁸⁸ The U.S. hopes that DRC, with the rest of the world, can meet the Sustainable Development Goal of “by 2030, significantly reduce illicit financial and arms flows, strengthen the recovery and return of stolen assets and combat all forms of organized crime.”⁸⁹ The goal of reducing IFFs also falls in line with the Addis Agenda which UN Member countries, including the DRC, have committed to reducing illicit funds. The U.S. Department of the Treasury (Treasury) and State will be integral in this effort. As presented in the earlier section, joint recommendations have already been proposed to the previous Secretary of State and Secretary of the Treasury from the Senate Foreign Relations Committee, which this proposal will echo a

⁸⁷ Bilateral Relations Fact Sheet, “Congo.”

⁸⁸ Cusack, “Sub Saharan Africa.”

⁸⁹ UNCTAD and UNODC, “Conceptual Framework for the Statistical Measurement of Illicit Financial Flows,” October 2020, https://www.unodc.org/documents/data-and-analysis/statistics/IFF/IFF_Conceptual_Framework_for_publication_15Oct.pdf.

few of those key recommendations. The focus of this proposal, however, is slightly narrower on four steps that the U.S. can help the DRC government to combat IFFs.

Both the Treasury and State, under their legal authority vested in these departments, have jurisdiction in the IFFs area.⁹⁰ State is the presence overseas and partners with international bodies to implement programs and policies. Treasury works with financial institutions, runs AML/CFT programs, and manages the U.S. Office of Foreign Asset Control (OFAC) which in turn manages sanctions. To implement sanctions, the president is authorized under the International Emergency Economic Powers Act of 1977 (IEEPA), section 204(b) 50 U.S.C. 1703(b) and under the Global Magnitsky Human Rights Accountability Act 22 U.S.C. §2656.⁹¹ The sanctions against Gertler are under the Global Magnitsky sanction authority. To enact sanctions, Treasury and State should recommend to the National Security Council (NSC) and the President, which once approved, is given back to Treasury and State for language drafting and management.⁹² Under the authorization of the Treasury to manage and track illicit finance, the Treasury can move forward with that side of the combatting IFFs effort. However, Treasury does not have a permanent representative in the DRC, so State and the U.S. Embassy in Kinshasa would need to implement measures on the ground. The current embassy personnel have negotiating power with the government of DRC. Current Ambassador Mike Hammer and U.S. Embassy Kinshasa can use the PP4PP program currently in place between the U.S. and DRC to bring up the specific

⁹⁰ Office to Monitor and Combat Trafficking in Persons, "Report to Congress on An Analysis of Anti-Money Laundering Efforts Related to Human Trafficking," U.S. Department of State, <https://www.state.gov/report-to-congress-on-an-analysis-of-anti-money-laundering-efforts-related-to-human-trafficking/>.

⁹¹ U.S. Department of the Treasury, "Global Magnitsky Sanctions," U.S. Department of the Treasury, <https://home.treasury.gov/policy-issues/financial-sanctions/sanctions-programs-and-country-information/global-magnitsky-sanctions>.

⁹² Brian O'Toole and Samantha Sultoon, "Sanctions explained: How a foreign policy problem becomes a sanctions program," Atlantic Council, September 22, 2019, <https://www.atlanticcouncil.org/commentary/feature/sanctions-explained-how-a-foreign-policy-problem-becomes-a-sanctions-program/>.

issue of IFFs. One of the PP4PP's goals is anti-corruption, so the PP4PP initiative will lend itself well to tackle the IFFs problem. Under the PP4PP, the U.S. and the U.S. Department of State has stated that they "stand firm with our partners in the DRC to counter malign behavior that undermines the country's institutions and economic opportunities."⁹³ Putting an emphasis on combatting IFFs should be added to the next iteration of the U.S. Embassy Kinshasa's Integrated Country Strategy.⁹⁴

Due to the cross-cutting nature of IFFs, it is prudent to combine Treasury action and State's ability to establish relationships to create a multi-tiered approach that includes the following measures in a multi-step process which in conjunction will aid with combatting IFFs.

1. The U.S. should implement further specific sanctions.
2. The U.S. should work with the DRC to make sure previously enacted sanctions are enforced.
3. The U.S. should increase the DRC anti-corruption commitments and promises to make sincere efforts towards AML/CFT Framework on U.S. given foreign aid and the IMF loan disbursements.
4. The U.S. should encourage the DRC to create AML enforceable legal framework through diplomacy and experts.

By doing these four actions simultaneously, the U.S. can help the world fight this issue through the DRC. The way to implement these measures are as follows.

i. Implementing Further U.S. Sanctions

⁹³ Ned Price, "Revocation of License Granted for Dan Gertler," U.S. Department of State Office of the Spokesperson, March 8, 2021, <https://cd.usembassy.gov/statement-by-ned-price-spokesperson/>.

⁹⁴ U.S. Department of State, "Integrated Country Strategy: Democratic Republic of the Congo," U.S. Department of State, August 3, 2018, https://www.state.gov/wp-content/uploads/2019/01/ICS-DRC_UNCLASS_508.pdf.

The U.S. should increase their targeted financial and travel sanctions, through Executive Order. Specifically, Treasury and State should recommend that the NSC and President Biden review whether it is appropriate to implement Global Magnitsky-style sanctions against Eurasian Resources Group Sarl and French national Elie-Yohann Berros, who are involved with Gertler and individuals in Gecamines. Gecamines, the State-run mining company, has been involved in the issuing many of the controversial mining rights.⁹⁵ The U.S. should additionally review whether the bank Afrilaand, which enabled Gertler, should also have targeted sanctions established.⁹⁶ These are middlemen in the mining sector that are exploiting the system. More sanctions impacting the middlemen and other known Gertler associates will be the most impactful, as with these middlemen is where much of the capital flight is happening. For example, the Belgian gold-trading Goetz family was convicted in Belgium for dealing in illicit gold coming from the DRC.⁹⁷ The companies they are connected to, Aldabra Ltd in Rwanda, and PGR Gold Trading in Dubai, should also be reviewed whether they should be sanctioned for their involvement.⁹⁸ The U.S. should review which additional sanctions are appropriate against these other countries' individuals, such as those in the refineries dealing in illicit gold mentioned above in neighboring countries like Rwanda and Uganda.⁹⁹ The sanctions would be targeting more international actors that are exploiting the Congolese system, such as the examples above.¹⁰⁰ Because DRC is a dollarized economy, a keyway to combat these international

⁹⁵ William Clows and Michael Kavanagh, "Deal for Key Metal in EV Revolution Brought Bonanza for Newcomer," Bloomberg, February 24, 2021 <https://www.bloomberg.com/news/articles/2021-02-25/deal-for-key-metal-in-ev-revolution-brought-bonanza-for-newcomer>.

⁹⁶ Patrick Smith, "DRC: Biden ends sanctions-relief deal for businessman Dan Gertler," The Africa Report, March 9, 2021, <https://www.theafricareport.com/70820/drc-biden-ends-sanctions-relief-deal-for-businessman-dan-gertler/>.

⁹⁷ David Himbara, "Rwanda's Gold Exports Fetched US\$522 Million in 2020 – a 754.6% Increase," Medium.com, February 9, 2021, https://medium.com/@david.himbara_27884/rwandas-gold-exports-fetched-us-522-million-in-2020-a-754-6-increase-ba0154017e3c.

⁹⁸ Patrick Smith, "Mining in Africa and beyond: Concealed origins," The Africa Report, March 9, 2021, <https://www.theafricareport.com/55350/mining-in-africa-and-beyond-concealed-origins/>.

⁹⁹ United States Senate Committee on Foreign Relations, "Risch, Menendez."

¹⁰⁰ Sasha Lezhnev, "Conflict Gold to Responsible Gold: A Roadmap for Companies and Governments," The Sentry, February 2021, <https://cdn.thesentry.org/wp-content/uploads/2021/02/ConflictGoldResponsibleGold-TheSentry-Feb2021.pdf>.

perpetrators is through sanctions as many of the elites in DRC have significant assets globally in the financial system.¹⁰¹ The U.S. currently has around 54 sanctions against DRC individuals and entities, but the number is higher if you count foreign nationals who are sanctioned for their role in mining. The new implemented sanctions would not be overarching sanctions, but targeted and with a specific goal of stopping the exploitation action.¹⁰² On March 8, 2021, the U.S. reinstated Dan Gertler's sanctions for his role in the Eastern Congo mining sector, by revoking the special license granted by the previous president.¹⁰³ Reinstating sanctions was a good step and will support the additional sanctions needed on other mining sector IFFs. Additionally, the Financial Crimes Enforcement Network (FinCEN), which also works with the U.S.'s FATF, should change the existing advisory on North Korea to include the risk of doing business with certain parts of the DRC.¹⁰⁴ The Sentry's other recommendation on sharing information with the private sector by publicizing risks on the Treasury and State websites should also be considered, specifically they suggest "The Treasury and State Departments should closely engage financial institutions, sharing information on the risks from corruption-related illicit flows."¹⁰⁵ Most of the sanctions and negotiating can be done through the pre-existing budgets from the Embassy and Treasury for the country.

ii. Enforcing Existing Sanctions

The U.S. should also have measures to fix the issue of individuals or companies who already have sanctions put on them being able to circumvent these restrictions. Ambassador Hammer

¹⁰¹ United States Senate Committee on Foreign Relations, "Risch, Menendez."

¹⁰² Office of Foreign Assets Control, "SDN List," OFAC, 2021, <https://sanctionssearch.ofac.treas.gov/>.

¹⁰³ Price, "Dan Gertler."

¹⁰⁴ The Sentry, "Conflict Gold."

¹⁰⁵ Megha Swamy, "Using Financial Pressures to Combat Kleptocracy in Africa," The Sentry Briefing, March 2021, <https://cdn.thesentry.org/wp-content/uploads/2021/03/Briefing-FinancialPressures-TheSentry-March2021.pdf>.

and U.S. Embassy Kinshasa should pressure the DRC to remove officials from their positions who have sanctions for human rights abuses, such as generals and other military officers. In response to this, the Department of Defense (DOD) attaché in the embassy and AFRICOM should increase their current program of training the DRC military to be more professional.¹⁰⁶ The U.S. will encourage the DRC to go against individuals who have been sanctioned by the U.S., either by removing them from their positions or, more preferably, prosecuting them for their crimes. The U.S. needs to encourage the government of DRC (GDRC) to join the Egmont Group which is an international organization of financial intelligence units which share information with each other. Joining the Egmont Group would help the DRC's information become more accessible, and help the DRC tap into international intelligence to help the DRC's intelligence unit, the Cellule Nationale des Renseignements Financiers (CENAREF), in process of doing their own investigations.¹⁰⁷ The U.S. recently passed the Anti-Money Laundering Act of 2020, which was a part of the National Defense Authorization Act for Fiscal Year 2021 (NDAA).¹⁰⁸ The NDAA legislation also outlines higher reporting requirements for American companies and steeper fines for non-compliance. Treasury can use the new legislation to help penalize Americans and other foreign nationals in the U.S. who are involved in IFFs and those previously sanctioned in the DRC. In addition, the Biden Administration should appoint an experienced diplomat to fill the U.S. Special Envoy for the Great Lakes region.¹⁰⁹ As mentioned many IFF issues stem from the mining areas, which are in the conflict-ridden Eastern DRC. By having another Ambassador whose sole focus is the Great Lakes region, the U.S. can help work on these problems as well as manage the sanctions that are implemented on individuals.

¹⁰⁶ U.S. Embassy Kinshasa, Defense Attache's Office, 2021 <https://cd.usembassy.gov/embassy/kinshasa/sections-offices/>.

¹⁰⁷ The Sentry, "Combat Kleptocracy in Africa."

¹⁰⁸ Andrea Gordon, Sarah Paul, and Ronald Zdrojeski, "Congress passes the Anti-Money Laundering Act of 2020, amending and modernizing the Bank Secrecy Act," JDSUPRA, January 8, 2021, <https://www.idsupra.com/legalnews/congress-passes-the-anti-money-9818694/>.

¹⁰⁹ Human Rights Watch, "The Need for a US Special Envoy for the Great Lakes Region, Joint Letter to the US Secretary of State," Human Rights Watch, <https://www.hrw.org/news/2021/03/23/need-us-special-envoy-great-lakes-region>.

iii. Additional Anti-Corruption Commitments for U.S. Aid

The next measure that the U.S. can do to help the DRC renovate its government system is to put additional transparency criteria on the foreign aid that is given to the DRC. State's office of the Bureau of Democracy, Human Rights, and Labor and USAID can implement increased criteria on the aid that is given through these offices. Specifically, require annual financial reports of state-owned companies and an independent auditing system.¹¹⁰ Additionally, the U.S. can influence the non-emergency IMF Extend Credit Facility loan decisions to also implement the additional financial measures that the U.S. will put on its own loans. These criteria should be implemented in fiscal year 2022. The IMF outstanding loans to the DRC are \$537.95 million as of December 31, 2020, so IMF funding is a good vehicle for incentivizing these measures.¹¹¹ The U.S. has the highest number of casting votes in the IMF at 831,400, and the highest percentage of the Fund total at 16.51.¹¹² The U.S. needs to encourage the IMF to continue to add measures to their loans as they are one of the biggest Congo lenders, but the U.S. has yet to appoint the U.S. IMF Executive Director. The Biden Administration should be encouraged to quickly nominate the IMF Executive Director so the U.S. can have greater say on these loans. Additional requirements to aid, diplomacy, and sanctions can all be easily implemented, as these steps are not an expense, just extra language on existing program criteria.

iv. Implementing AML/CFT Framework

¹¹⁰ United States Senate Committee on Foreign Relations, "Risch, Menendez."

¹¹¹ IMF, "Democratic Republic of the Congo," IMF, 2021, <https://www.imf.org/en/Countries/COD>.

¹¹² IMF, "IMF Executive Directors and Voting Power," International Monetary Fund, March 16, 2021, <https://www.imf.org/external/np/sec/memdir/eds.aspx>.

To implement government reforms the U.S. can lend technical assistance and ask the GDRC to work on the IFFs matter. Treasury should start a new program in the DRC to provide training and technical assistance. The Treasury's Office of Technical Assistance (OTA) should send personnel to help implement AML/CFT framework to meet international standards.¹¹³ Before the OTA program is implemented, OTA requires a written agreement called a Terms of Reference (TOR) document from the Congolese president and other members who will be working with the program.¹¹⁴ The OTA program will be similar to other OTA programs, three - four years in length, and the U.S. will also aid DRC to create an action plan after calculating the scope of the issue in accordance with FATF to address their deficiencies, during the period of the program, as well as a plan that the DRC can continue to follow even after the program is over.¹¹⁵ They will work with the DRC presidential office, finance ministry, central bank, and foreign ministry to apply the most recent FATF defined standards, such as independent audits, transparency in finance, reduction in corruption, and tax reform.¹¹⁶

Furthermore, the OTA team will help implement the UNCTAD and UNODC framework for measuring IFFs, copying the framework used in pilot programs in Afghanistan, Nigeria, and other countries to help calculate a more precise scope of the IFFs in the DRC.¹¹⁷ The NDAA also outlines a similar program being implemented in Sudan, which has a reporting requirement of the first 3 months and then once every 6 months.¹¹⁸ As the DRC is reliant on foreign assistance

¹¹³ U.S. Department of the Treasury, "Money Laundering Threat Assessment Working Group," U.S. Department of the Treasury, December 2005, <https://www.treasury.gov/resource-center/terrorist-illicit-finance/documents/mlta.pdf>.

¹¹⁴ Office of Technical Assistance, "Technical Assistance," U.S. Department of the Treasury, <https://home.treasury.gov/about/offices/international-affairs/technical-assistance#:~:text=The%20Department%20of%20the%20Treasury's,and%20safeguard%20their%20financial%20sectors.>

¹¹⁵ FATF, "Improving Global AML/CFT Compliance: On-going Process - 23 February 2018," FATF, February 23, 2018, <http://www.fatf-gafi.org/publications/high-riskandnon-cooperativejurisdictions/documents/fatf-compliance-february-2018.html>.

¹¹⁶ Inter-agency Task Force on Financing for Development, "Coherent policies for combatting Illicit Financial Flows," UNODC, OECD, July 2016, https://www.un.org/esa/ffd/wp-content/uploads/2016/01/Coherent-policies-for-combatting-Illicit-Financial-Flows_UNODC-OECD_IATF-Issue-Brief.pdf.

¹¹⁷ UNCTAD, "UN agencies finalize a framework to measure illicit financial flows," UNCTAD, December 21, 2020, <https://unctad.org/news/un-agencies-finalize-framework-measure-illicit-financial-flows>.

¹¹⁸ NDAA, "Sec. 1269. Multilateral Assistance," Govtrack, <https://www.govtrack.us/congress/bills/116/hr6395/text>.

for much of its funding, the U.S. should give that program as aid to the DRC to be able to implement some of these programs. In DRC, public financial management (PFM) is managed by a combination of Ministry of Budget, Ministry of Planning, Ministry of Finance, and the Central Bank of Congo (BCC).¹¹⁹ The program will be evaluated every year for continued effectiveness and progress. Further projects can be considered after the first OTA project is complete such as aiding the CENAREF in improving their independent investigations and helping the private banking systems with implementing their own regulations. Before the DRC OTA program is fully put into effect, Ambassador Hammer can start by encouraging the GDRC to fully implement the mining reforms that DRC already made to the Mining Code in 2018 to prevent IFFs and to promote more openness in that sector.¹²⁰ The U.S. should also encourage DRC to publicly publish financial reports for publicly owned assets and companies, so the public and private sector will be more effective at countering IFFs.¹²¹ The U.S. can encourage them to do so, and the OTA program can also work reporting requirement framework assistance into their AML/CFT framework plan.

The DRC OTA program will cost money and the Office of Terrorist Financing and Financial Crimes (TFFC) will send new specialists into the DRC to aid local officials to strengthen the AML/CFT Framework through the OTA program. The cost will most likely come out of the OTA's budget, which their FY2021 budget request was \$33,000,000 from Congressional appropriations.¹²² The OTA also uses funds given from State and USAID to help supplement funding, which for the DRC

¹¹⁹ IMF, "Democratic Republic Of The Congo - Staff Report For The 2019 Article IV Consultation," IMF, August 5, 2019, p. 6.

¹²⁰ United States Senate Committee on Foreign Relations, "Risch, Menendez."

¹²¹ Inter-agency Task Force on Financing for Development, "Financing for Sustainable Development Report 2020." New York, United Nations, 2020, <https://developmentfinance.un.org/fsdr2020>.

¹²² U.S. Department of the Treasury, "U.S. Department of the Treasury International Programs Congressional Justification for Appropriations FY 2021," U.S. Department of the Treasury, 2020, <https://home.treasury.gov/system/files/266/FY-2021-Treasury-150s-CBJ.pdf>.

project would make sense because there is already such a large footprint of programs from State and USAID.¹²³ Since OTA, with the supplemented budgets, has about 92 programs, then the average amount annually spent on one of these programs is \$550,000. The DRC program would be about that amount for the first year with a need for additional allotments every additional year. The DRC OTA program should run up to three years with an optional two-year extension, making the total amount for the whole period \$1,650,000. The OTA for the DRC's AML/CFT framework program will need to ask for additional FY2022 funds from Congress.

Through the main implementation bodies of State and Treasury, the U.S. can use sanctions, regulations, and an assistance program to help the DRC to combat its problem.

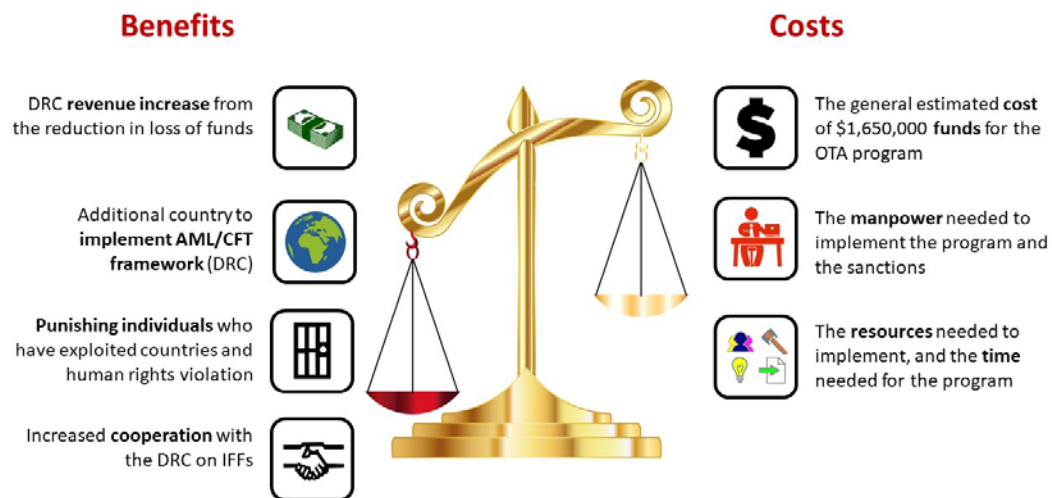
V. Policy Analysis

The mix of U.S. assistance, encouragement, and sanctions make up this policy, and therefore need to be evaluated as a whole. The question is would U.S. intervention on combatting IFFs be effective. We must weigh the benefits versus the drawbacks of the four steps purposed in the policy to evaluate whether sanctions, improved enforcement of existing sanctions, putting requirements on foreign assistance, and an AML/CFT implementation program are the most efficient ways to handle combatting IFFs.

The first thing which must be assessed is the cost. The obvious cost to the DRC OTA program is the general estimated cost of \$1,650,000 funds that are being contributed to the OTA program,

¹²³ U.S. Department of the Treasury, "Department of The Treasury International Affairs Technical Assistance 2019 Report To Congress," U.S. Department of the Treasury, 2019, <https://home.treasury.gov/system/files/206/2019-OTA-Report-to-Congress.pdf>.

and the money that would contribute to the program could be more effectively used in other areas. Still, the amount is relatively small compared to other programs such as the most recent assistance to Sudan in the NDAA, which authorized \$10,000,000 for fiscal years 2021 and 2022.¹²⁴ In fact, the \$550,000 in funds for one fiscal year is a smaller amount than what the United States announced they are providing for the rapid response Ebola team. The U.S. has already pledged \$3.5 million to combat the Ebola problem in the DRC and Guinea.¹²⁵ The U.S. has many aid programs in DRC of various levels of effectiveness, but the OTA programs are unique in that they partner directly with the financial sector. So, the DRC OTA program has comparatively low costs to other programs, and the benefits could be great. As previously mentioned, the capital flight from the gold trade alone is \$3 billion, not counting the revenue lost to tax fraud and corruption. Since it is estimated that higher than 5 percent of DRC's GDP is lost to capital flight, the OTA low-cost program could have a high benefit.¹²⁶



¹²⁴ NDAA, "Multilateral Assistance."

¹²⁵ Office of Press Relations, "The United States Announces \$3.5 Million In Assistance To Contain Ebola Outbreaks In The Democratic Republic Of The Congo And Guinea," USAID, [https://www.usaid.gov/news-information/press-releases/mar-06-2021-united-states-announces-35-million-assistance-contain-ebola-drc-guinea#:~:text=The%20United%20States%2C%20through%20the,Congo%20\(DRC\)%20and%20Guinea.](https://www.usaid.gov/news-information/press-releases/mar-06-2021-united-states-announces-35-million-assistance-contain-ebola-drc-guinea#:~:text=The%20United%20States%2C%20through%20the,Congo%20(DRC)%20and%20Guinea.)

¹²⁶ UNCTAD, "Tackling Illicit Financial Flows."

Figure 2: Cost Benefit Analysis Scale of Enacting the Proposal

Benefits to Implementation

Issuing additional sanctions and having Ambassador Hammer encourage the GDRC to implement policy, as well as using existing programs to focus on the IFFs issue in the DRC, will help to reach State and Treasury goals and continue to put pressure on the DRC to work on the IFFs subject. In the Treasury Strategic Plan 2018-2022, Strategy 3.2C is to “Encourage international partners to adopt, implement, and enforce international AML/CFT standards.”¹²⁷ Their measure and indicator of success for this point is in the number of partners that adopt the standards. The DRC using the OTA program to adopt these standards would be a success for Treasury. To reach the goal of 30/100, DRC needs to show that it is making a sincere effort to respond to its problems and install FATF framework. The DRC assessment is based on a variety of factors, so if DRC implements the U.S. aid proposal and starts following the U.S. suggestions of punishing sanctioned individuals, the score of 30/100 can be achieved.¹²⁸ DRC needs to show that they are giving at least a moderate effort to try and combat IFFs.

The U.S. helping previous sanctions to be enforced will create a message that those who are sanctioned will face real consequences. According to the Sentry, “FinCEN advisories play a critical role in anti-corruption and sanctions enforcement efforts.”¹²⁹ With the increase in fines and punishments that have been enacted through the NDAA, the U.S. can make more of an impact on companies. Before the crime’s severity was increased, JP Morgan Chase was fined by

¹²⁷ Office of Strategic Planning and Performance Improvement, “Treasury Strategic Plan 2018-2022,” U.S. Department of the Treasury, 2018, https://www.fincen.gov/sites/default/files/shared/2018_2022_Treasury_Strategic_Plan_web.pdf.

¹²⁸ Financial Crime News, “Financial Crime Threat Assessment: Sub Saharan Africa,” The Financial Crime News, 2020, <https://thefinancialcrimenews.com/wp-content/uploads/2019/06/SSA-TA-2020-Published-6.pdf>.

¹²⁹ The Sentry, “Artful Dodgers.”

the Treasury a sum of \$88.3 million for violating sanctions out of OFAC. Similar repercussions can disincentivize banks from doing business with the newly sanctioned individuals.¹³⁰

Targeted sanctions have been more effective than broad sanctions in the past. The fact that Gertler worked so hard to get the U.S. to grant a special license from the sanctions put upon him means that he was being affected by them. In 2017, when the sanctions were initially imposed, Gertler hired Trump's lawyer Alan Dershowitz to get his license, so he could access his accounts. The reprieve has since been canceled.¹³¹ As the DRC is a dollarized economy, and the international members involved in IFFs use dollars extensively and are more likely to travel overseas, these sanctions have more impact on those individuals. Studies have suggested that the more a country relies on the U.S. the more effective the sanctions will be, and because many individuals need U.S. dollars to do business in the DRC, they have to have some level of business with the U.S.¹³² Sanctions bundled with the other aspects of the proposal are a positive thing because most of the research on sanctions indicates they are most effective when targeted and coupled with other policy measures, such as the AML program proposed. Unilateral sanctions are generally agreed by experts to be ineffective, but these are targeted sanctions.¹³³

AML/CFT framework has proven effective in other countries, and the fact that one Congolese bank has already implemented these measures is promising. Programs from OTA have already

¹³⁰ OECD, "Illicit Financial Flows from Developing Countries: Measuring OECD Responses," 2014, OECD, 24, https://www.oecd.org/corruption/Illicit_Financial_Flows_from_Developing_Countries.pdf.

¹³¹ Franz Wild, "Dan Gertler - the man at the centre of DR Congo corruption allegations," BBC, March 23, 2021, <https://www.bbc.com/news/world-africa-56444576>.

¹³² Report to Congressional Requestors, "Economic Sanctions Agencies Assess Impacts on Targets, and Studies Suggest Several Factors Contribute to Sanctions' Effectiveness," United States Government Accountability Office, October 2019, <https://www.gao.gov/assets/gao-20-145.pdf>.

¹³³ Brian O'Toole, "Sanctions are effective- if used correctly," Atlantic Council, November 4, 2019, <https://www.atlanticcouncil.org/blogs/new-atlanticist/sanctions-are-effective-if-used-correctly/>.

been implemented and effective in other countries. The OTA program in Zambia, a neighboring country, has had success under the OTA program.¹³⁴ The OTA program in Zambia, which has run from 2017 through 2021, focused on revenue administration and revenue policy. Most of the OTA programs run for three to four years. In that program they partnered with local auditors and trained them to strengthen auditing techniques and help them with legal support and risk analysis tools.¹³⁵ This program also identified that Zambia was losing \$76 million of tax revenue due to a treaty between Zambia and Mauritius, which resulted in the Zambian government ending that treaty.¹³⁶ The Zambian program is one of many OTA programs implementing regulations overseas which have successfully accomplished their goals within three to four years, and while the Zambian program was not implementing AML/CFT framework, there are other successful OTA programs that have implemented this framework. These OTA programs have proven success, for example, the OTA program with the Eastern Caribbean Central Bank successfully developed and implemented their own AML/CFT risk assessment process to comply with FATF recommendations from 2017 to 2019.¹³⁷ One of the criteria for doing an OTA program requires that the government must be committed to reform. With the Tshisekedi Administration, the DRC is showing that it is committed to reform and open to starting a program of this nature. Regulation in DRC has improved in the last 10 years; the 2015 World Bank Doing Business Report said that DRC is one of 10 countries which has made the biggest advances in their regulations.¹³⁸

¹³⁴ U.S. Department of the Treasury, "2019 Report."

¹³⁵ U.S. Department of the Treasury, "Current Comprehensive Project Report," U.S. Treasury Office of Technical Assistance, September 30, 2018, https://www.treasury.gov/about/organizational-structure/offices/Documents/OTA_COMPREHENSIVE.pdf.

¹³⁶ U.S. Department of the Treasury, "2019 Report."

¹³⁷ Ibid.

¹³⁸ IMF, "2019 Article IV Consultation," 7.

Putting conditions on aid has been effective since IMF loans are a large portion of the DRC's income. The overall international debt is estimated at 40 percent of the GDP in 2017.¹³⁹ The Chinese recently extended debt relief to their loans that have matured in 2020. \$2.4 billion has been loaned from China to the DRC between 2000-2018, but the IMF loans are higher.¹⁴⁰ A recent study published in The American Economist suggests that when a country is in compliance with certain IMF conditions, the country does receive GDP growth.¹⁴¹ Working on AML/CFT framework would help revenue flow, so by IMF requiring it, DRC would be forced to look at their plans. Transparency International tracked the IMF corruption framework since they enacted it in 2018 and have said the country analysis and increased emphasis on combatting IFFs has been overall positive for the countries involved.¹⁴²

Disadvantages to Implementation

This proposal addresses the issue of IFFs, but in a country with so many layers as DRC, there might be relatively little impact. The rule of law is weak in DRC, and the Eastern DRC, where much of the resources are, still has ongoing conflict that does not seem to be improving.¹⁴³ Most recently, the Italian Ambassador was killed while in Eastern DRC.¹⁴⁴ Because the DRC has so many outlier problems that contribute to the overall IFFs in the country, the goal of reaching the 30/100 risk score may not be achievable. Until the DRC starts progressing on solving their conflicts and charging those who are culpable in human rights and other crimes, the four steps

¹³⁹ Jubilee Debt Campaign, "Congo, Democratic Republic Of," Jubilee Debt Campaign, 2017, <https://jubileedebt.org.uk/countries/congo-the-democratic-republic-of-the>.

¹⁴⁰ Reuters Staff, "Democratic Republic of Congo says China has granted pandemic-linked debt relief," Reuters, January 6, 2021, <https://www.reuters.com/article/uk-congo-china-debt/democratic-republic-of-congo-says-china-has-granted-pandemic-linked-debt-relief-idUSKBN29B1VK>.

¹⁴¹ Lauren Hackler, Frank Hefner, and Mark D. Witte, "The Effects of IMF Loan Condition Compliance on GDP Growth," The American Economist 65(1), (2020): 88-96, <https://journals.sagepub.com/doi/pdf/10.1177/0569434519836994>.

¹⁴² M. Emilia Berazategui, "Is The Imf Doing Enough To Tackle Corruption?" Transparency International, June 25, 2020, <https://www.transparency.org/en/blog/is-the-imf-doing-enough-to-tackle-corruption>.

¹⁴³ IMF, "2019 Article IV Consultation," 7.

¹⁴⁴ Valentina Di Donato and Sharon Braithwaite, "Italian ambassador died in gunbattle in DRC, not execution, prosecutor says," CNN, February 25, 2021, <https://www.cnn.com/2021/02/25/africa/italian-ambassador-death-gun-battle-intl/index.html>.

to this proposal may not be enough to be effective. The policy proposal includes lots of soft power encouragement to the GDRC, but these are just conversations that cannot be enforced by the U.S.

The U.S. can try to help with its policies, but ultimately the GDRC is going to have to take ownership of the IFFs issue. There are many prerequisites which need to happen to be able to effectively work on the IFFs problem, such as ending the conflict in Eastern DRC, paying and professionalizing their police force, renovating their tax code to receive additional tax revenue, and tracking fraud in the country. There are less than 10 years until 2030, which is not much time to try and revamp these many and long-lasting complicated sectors. The UN has had many failures in the DRC, specifically Eastern DRC, which shows that the DRC issues run deep, and they have been in DRC for a long period of time. The UN failure shows that U.S. policy may not have much impact, as the UN and the U.S. have been working in the DRC for a long time and have not had significant change.¹⁴⁵ Corruption hinders all efforts for reforms and even if the U.S. implements a successful program, the OTA program could take a long time to implement and that could incur extra costs. The two North Korean bankers got around sanctions in the DRC by making relationships with local city and provincial government authorities.¹⁴⁶

Critics of sanctions say, while potentially globally shaming an individual, sanctions are limited in scope. Sanctions really only limits individuals from going to America and freeze their American bank assets.¹⁴⁷ Sanctioned individuals are not necessarily affected if the country in which they

¹⁴⁵ Alexandra Novosselof, "Assessing the Effectiveness of the UN Missions in the DRC," Norwegian Institute of International Affairs, 2019, <https://reliefweb.int/sites/reliefweb.int/files/resources/Assessing-the-effectiveness-of-the-United-Nations-Mission-in-the-DRC-MONUC-%E2%80%93-MONUSCO.pdf>.

¹⁴⁶ The Sentry, "Artful Dodgers."

¹⁴⁷ O'Toole, "Sanctions are effective."

are doing their activities, such as the DRC, is not inclined to enforce. Gertler, while hurt by sanctions freezing his overseas assets, is still able to work relatively freely in the DRC.¹⁴⁸ Many of the generals and other government officials are still in power even after the U.S. enacted sanctions against them. Sanctions also tend to have unintended consequences, and targeted sanctions have not been evaluated as extensively as unilateral sanctions.¹⁴⁹ Some examples of when sanctions have had the wrong effect are when the individuals develop commercial interests that are not as dependent on the U.S. or the democratic freedoms and human rights violations got worse. If the sanction is a UN sanction, it tends to be more effective than a U.S. sanction, because it is more universal.¹⁵⁰

IFFs are by their very nature, illicit, so tracking exact dollar amounts and taking on these enterprises is a difficult task. Many companies and individuals use corporations to try and hide ownership or make illicit finance appear legitimate.¹⁵¹ Even U.S. banks sometimes have trouble complying with the suggested AML/CFT framework in regard to transparency of beneficial ownership and legal arrangements.¹⁵² The fact that even U.S. banks have issues calculating and tracking IFFs demonstrates that the DRC will have a hard time dealing with IFFs as well. The effectiveness of combatting the issue drops even lower in the DRC where transactions are largely informal.

The OTA AML/CFT framework program may fail or be rejected. OTA tends to be very selective in choosing their programs, though an endorsement of an OTA program in the DRC from the

¹⁴⁸ Wild, "Dan Gertler."

¹⁴⁹ Report to Congressional Requestors, "Economic Sanctions."

¹⁵⁰ Ibid.

¹⁵¹ OECD, "Illicit Financial Flows," 34.

¹⁵² Ibid., 37.

Secretary of State and Secretary of Treasury would help prioritize the DRC for the OTA. The OTA requires sufficient buy-in from the host government and assesses the impact of every project. If the DRC does not sign a bilateral TOR, then OTA program is not going to work. OTA at the quarterly point can curtail or end their project if less than satisfactory results are achieved. According to OTA's report, the termination of a program happens to at least 6 percent of their projects.¹⁵³

IMF loans have increasingly been including anti-corruption framework, as have U.S. lending aid, but some critics believe that the IMF should not take on corruption and transparency issues.¹⁵⁴ Others argue that IMF needs to protect its loans from mismanagement, and IMF loans are a good vehicle for transparency. The real question is would IMF withhold needed monetary loans for corruption and transparency reasons. The reality is IMF can get promises out of countries, but it is still dispersing loans to them. Critics of the IMF conditions on loans say that in general "conditional lending arrangements lead to little or no macroeconomic improvements in the short run subsequent to the loan program's end date."¹⁵⁵ Transparency International also comments that IMF needs to release a methodology for their corruption framework, because it has been uneven with certain countries getting a high level of mentions and others receiving no mention of corruption transparency in their loans. IMF needs to evenly distribute their corruption framework to all countries.¹⁵⁶

Some may argue that there are other solutions to the IFFs problem, but if this policy tried to address all the solutions, there would be no focus on IFFs. Because of the nature of IFFs and the

¹⁵³ U.S. Department of the Treasury, "2019 Report."

¹⁵⁴ Shang-Jin Wei, "Corruption and Globalization," Brookings, <https://www.brookings.edu/research/corruption-and-globalization/>.

¹⁵⁵ Hackler, Hefner, and Witte, "IMF Loan Condition Compliance," 88-96.

¹⁵⁶ Berazategui, "IMF."

weak points that are exploited, there are many ways that other experts have proposed to tackle the multi-dimensional troubles of the DRC, such as focusing on the DRC tax system to implement the reforms needed. Tax reform, while desperately needed, is in and of itself another program that needs to be an initiative of the DRC. While the OTA program, when strengthening the DRC programs, inevitably will address some of these issues with local officials, it is not the focus of the OTA program proposed. Another alternative that people have suggested is recovering the illicit funds and returning it to the country. There are already very extensive asset recovery programs that could help return the revenue lost due to IFFs, but this policy focuses on punishing perpetrators and strengthening weaknesses, so that it is harder for individuals to exploit the country in the future. The Stolen Asset Recovery Initiative (StAR) is one such program that is a partnership between World Bank and the UN Office on Drug and Crime.¹⁵⁷ Another solution that has been proposed to help DRC is to focus on making sure the elections are free and fair to strengthen democratic institutions and in turn help fight IFFs.¹⁵⁸ While critics can argue which program is their preference, the proposal here is a more targeted approach to strengthening deficiencies, rather than recovery or tax reform.

Overall, the pros and cons of this proposal are about even for each of the items.

VI. Political Analysis

The United States will benefit from strengthening their partnership with the DRC and showing that they are trying to help combat this global issue. The U.S. is affected by IFFs, as many of the

¹⁵⁷ Transparency International, "Priority Reforms To Advance Sdgs & Counter Illicit Financial Flows," Transparency International, July 24, 2020, <https://www.transparency.org/en/news/un-facti-panel-priority-reforms-to-advance-sdgs-counter-illicit-financial-flows#>.

¹⁵⁸ United States Senate Committee on Foreign Relations, "Risch, Menendez."

individuals using the DRC's loose regulations are adversely affecting U.S. systems, such as the two North Koreans evading sanctions, as well as illicitly gained funds contributing to the perpetuation of the current Islamic State Central Africa Province (ISCAP) group.¹⁵⁹ The ISCAP has grown; recently the Biden Administration elevated their designation on March 10, 2021 to Foreign Terrorist Organizations under section 219 of the Immigration and Nationality Act, and the State Department through Executive Order 13224 has designated ISIS-DRC as Specially Designated Global Terrorists (SDGTs).¹⁶⁰ It will be politically advantageous to combat funding for these groups, as combating terrorism is something bipartisan people can get behind.

The U.S. has shown that enacting sanctions and other designations such as the foreign terrorist designations above are very popular politically and will continue to be popular. The new Deputy Treasury Secretary Wally Adeyemo even identified sanctions as a key U.S. national security tool during his confirmation hearing and expects them to be used as an option for years to come.¹⁶¹ The current State is even planning on bringing back the Hillary Clinton era Office of Sanctions Coordination, which is a good indicator that sanctions are going to increase.¹⁶² The revival of the Office of Sanctions Coordination also shows that State and Treasury are the ideal partners for this proposal.

¹⁵⁹ Congo Research Group, "Inside the ADF Rebellion: A Glimpse into the Life and Operations of a Secretive Jihadi Armed Group," Center on International Cooperation, New York University, November 2018, <http://congoresearchgroup.org/wp-content/uploads/2018/11/Inside-the-ADF-Rebellion-14Nov18.pdf>.

¹⁶⁰ Office of the Spokesperson, "State Department Terrorist Designations of ISIS Affiliates and Leaders in the Democratic Republic of the Congo and Mozambique," U.S. Department of State, March 10, 2021, <https://www.state.gov/state-department-terrorist-designations-of-isis-affiliates-and-leaders-in-the-democratic-republic-of-the-congo-and-mozambique/>.

¹⁶¹ Reuters Staff, "Treasury No. 2 Adeyemo sees sanctions as strong policy tool for years to come," Reuters, April 1, 2021, <https://www.reuters.com/article/us-usa-treasury-sanctions-idUSKBN2BP02D>.

¹⁶² Daniel Fried and Edward Fishman, "The rebirth of the State Department's Office of Sanctions Coordination: Guidelines for success," Atlantic Council, February 12, 2021, <https://www.atlanticcouncil.org/blogs/new-atlanticist/the-rebirth-of-the-state-departments-office-of-sanctions-coordination-guidelines-for-success/>.

Other countries of interest to the U.S. are involved in the DRC, so combatting IFFs in the DRC also falls under those national security priorities as well. By adding the DRC to the North Korean FinCEN warning it could minimize the risk of North Koreans taking advantage of the DRC dollarized economy.¹⁶³ The Chinese have increased their activity in the DRC, through their Belt and Road Initiative. For example, the Chinese battery maker Contemporary Amperex Technology Co Ltd (CATL) has invested in a DRC mine for \$137.5 million, giving them access to one of the world's largest sources of cobalt.¹⁶⁴ The Chinese are involved in many aspects of the DRC, and the GDRC has been mortgaging natural resources for loans from China.¹⁶⁵ Recently, the DRC joined the Belt and Road Initiative of China, and in exchange for joining, the Chinese cancelling of \$28 million in loans.¹⁶⁶ But China only owns a small amount of DRC debt, so DRC will still needs more international help. IMF loans and U.S. foreign assistance are still needed and used in the DRC. Since resources are one of the sources for IFFs, this is another political reason the U.S. should show that they are moving on the IFFs issue in the DRC by enacting the proposal.

The U.S. is committed to aiding the DRC with their issues. The Biden Administration especially is committed to helping. On the initial call of the Biden Administration between President Tshisekedi and Vice-President Kamala Harris, the U.S. committed to working together with the DRC on a plethora of topics, one of which was to "promote human rights and good

¹⁶³ The Sentry, "Artful Dodgers."

¹⁶⁴ Tom Daly, "CATL takes stake in China Moly cobalt mine for \$137.5 million," Reuters, April 11, 2021, <https://www.reuters.com/article/us-cmoc-catl-mine-idUSKBN2BY0BZ>.

¹⁶⁵ Njiraini Muchira, "Limited Sovereignty as African Countries Mortgage Resources to China," The Maritime Executive, April 4, 2021, <https://www.maritime-executive.com/editorials/limited-sovereignty-as-african-countries-mortgage-resources-to-china>.

¹⁶⁶ Jevans Nyabiage, "China cancels Democratic Republic of Congo loans as it joins belt and road," South China Morning Post, January 7, 2021, <https://www.scmp.com/news/china/diplomacy/article/3116837/china-cancels-democratic-republic-congo-loans-it-joins-belt>.

governance.”¹⁶⁷ The Biden Administration also wants to strengthen the partnership with President Tshisekedi as the current head of the African Union. President Biden and Secretary Blinken both have made a point to emphasize improving relations with partners overseas. Strengthening the DRC strategic partnership is a part of that, as Secretary Blinken’s most recent speech to NATO says, “First, we must recommit to our alliances – and to the shared values that sustain them.” He also emphasized a recent poll from the Chicago Council on Global Affairs that “nine in ten Americans believe that maintaining our alliances is the most effective way to achieve our foreign policy goals.”¹⁶⁸ Blinken’s statement is a good indicator of support from the current administration and the public for the program proposed. In fact, the steps advocated in this proposal are similar to those that received bipartisan support in the original congressional letter to the previous Secretary of State and Secretary of Treasury.¹⁶⁹ The aims of the proposal should not have many political opponents, as indicated by previous support.

Due to the international nature of the IFFs issue, there are a lot of stakeholders involved in illicit financial flows in the DRC, the FATF for one. The FATF would most likely support the U.S. program in the DRC, as it further helps the FATF mission. Treasury is the liaison for FATF in the U.S. The IMF has no reason to go against a United States request for more requirements on their loans, because putting increased measures on loans is something that the IMF is trending toward. They have already put increased anti-corruption restrictions on Covid-19 relief funding, thus adding more to help the country be more self-sufficient would be aligned with their current

¹⁶⁷ U.S. Embassy Kinshasa, “Readout of Vice President Kamala Harris Call with President Felix Tshisekedi of the Democratic Republic of the Congo,” U.S. Embassy in the Democratic Republic of the Congo, February 26, 2021, <https://cd.usembassy.gov/readout-of-vice-president-kamala-harris-call-with-president-felix-tshisekedi-of-the-democratic-republic-of-the-congo/>.

¹⁶⁸ Antony J. Blinken, “Reaffirming and Reimagining America’s Alliances,” NATO Headquarters Agora, Speech, Brussels: March 24, 2021, <https://ru.usembassy.gov/reaffirming-and-reimagining-americas-alliances-speech-by-secretary-blinken-at-nato-headquarters/>.

¹⁶⁹ United States Senate Committee on Foreign Relations, “Risch, Menendez.”

policies.¹⁷⁰ USAID has always been committed to good governance and transparency, through their Democracy, Human Rights, and Governance office, so enacting more regulation on loans and the OTA programs could get supported.¹⁷¹ Yet, USAID may get frustrated at the additional potential barrier to getting aid to those who need it, like the local population of DRC that have many humanitarian needs.

The DRC by taking the action outlined in the proposal would be working towards the international commitments it has made such as the UN Convention against Corruption and the DRC's commitment to GABAC within the FATF.¹⁷² The UN Convention against Corruption is a legally binding universal anti-corruption treaty that the DRC ratified in 2010.¹⁷³ The DRC has indicated they would like the support in a recent UN Briefing on the Great Lakes Region, with the Congolese delegate stating "international support is also needed to stem the illicit exploitation of resources in the region, which is a major source of funding for the armed groups."¹⁷⁴ The main UN body that would be a key stakeholder is the UNCTAD, as they are the one that releases the reports about IFFs. The UNCTAD will be tentatively supportive of any effort to combat IFFs, but according to their report, the UN should be handling the IFFs problem and want a more universal approach. The UNCTAD would probably ask that instead of the U.S. program the UN should handle it.¹⁷⁵ However, the U.S. has a better relationship with the current DRC government. While the UN's largest mission is in the DRC, they are not very popular with

¹⁷⁰ IMF on Corruption and Covid-19, "COVID-19 Financial Assistance."

¹⁷¹ USAID, "Democracy Human Rights and Governance," USAID, March 26, 2021, <https://www.usaid.gov/democracy>.

¹⁷² FATE, "GABAC."

¹⁷³ UN Office on Drugs and Crime, "United Nations Convention against Corruption," United Nations, <https://www.unodc.org/unodc/en/treaties/CAC/>.

¹⁷⁴ News and Press Release, "Briefing Security Council, Special Envoy for Great Lakes Region Highlights New Strategy for Peace, Human Rights, Noting Situation Remains 'Broadly Stable'," UN Security Council, October 13, 2020, <https://reliefweb.int/report/democratic-republic-congo/briefing-security-council-special-envoy-great-lakes-region>.

¹⁷⁵ UNCTAD, "Tackling Illicit Financial Flows."

the DRC and there have been anti-UN protests in the Eastern-DRC. In Beni, around 60 people were arrested during anti-UN protests, because the DRC citizens are upset with their inability to quell the violence there.¹⁷⁶

President Tshisekedi has strong support from the Congolese public, which is probably what is accounting for his recent consolidation power moves. There is 69 percent support for the President and democracy, but many are still concerned by the corruption in the country and the economy.¹⁷⁷ The DRC local sector is expecting Tshisekedi to live up to his promises, 81 percent of Congolese believe that corruption has a negative impact on their lives.¹⁷⁸ Working with the U.S. to put into place protections to prevent capital flight and regulation reform will be favorable to the Congolese.¹⁷⁹ If President Tshisekedi follows U.S. recommendations in this proposal, it will further prove that he is committed to punishing those who are exploiting the Congolese. In general, the local Congolese would appreciate further progress on combatting IFFs. The Congolese civil society groups have been particularly calling for the need to reform for corruption and regulation, which is why they should also be given buy-in to the OTA program.¹⁸⁰

A Few Political Barriers

While Tshisekedi is continuing to consolidate power, there are many layers to the Congolese government. The Congolese congressional institution has many members and because of the

¹⁷⁶ Aljazeera, "DR Congo: Dozens detained in Beni during anti-UN protests," Aljazeera, April 8, 2021, <https://www.aljazeera.com/news/2021/4/8/dr-congo-dozens-detained-in-beni-during-anti-un-protests>.

¹⁷⁷ IRI, "Democratic Republic of the Congo: Despite Economic Fears, IRI's First Nationwide Poll Shows Strong Support for President Tshisekedi," International Republican Institute, January 29, 2020, <https://www.iri.org/resource/democratic-republic-congo-despite-economic-fears-iris-first-nationwide-poll-shows-strong>.

¹⁷⁸ Ibid.

¹⁷⁹ Ibid.

¹⁸⁰ Ibid.

low regulations and corruption, the U.S. could be less effective at enacting the OTA program, even with the Tshisekedi Administration's support.¹⁸¹ The further out from Kinshasa, the weaker the President's power gets, and in the East, where the mining and violence issues are, the President and his party's power are relatively weak. The lack of power in the Eastern DRC makes it difficult for any reform that the OTA could enact to reach that area. The Congolese government officials may also protest against further criteria to loans and aid, even though ultimately these are better for the long-term development of the country. Another section of government that is needed is the Congolese parliament, which is necessary to hold accountable those in the Congolese military under U.S. sanctions. As of right now, the parliament needs to empower the courts to be independent, as currently it is underfunded and influenced by parliamentary politics.¹⁸² While these are potential barriers to the OTA program, with Tshisekedi consolidating power in parliament, right now is an ideal time politically to implement a program to have some impact on IFFs.

Local political actors profit from the current system, so they do not want to have any large-scale change, especially when it comes to the increased regulation and transparency that comes with AML/CFT framework. The lack of motivation from those who profit from the system makes it difficult to enact widespread change with narrow U.S. policy tools and training. The Countering Corruption Through U.S. Foreign Assistance research report, from the Congressional Research Service (CRS) brought up the point that "for some time, U.S. funders have explicitly invoked the need to account for political will when designing and supporting anti-corruption programs."¹⁸³ According to their findings, technical capacity challenges are not necessarily why the programs

¹⁸¹ Dizolele and Kambale, "IRI Expert."

¹⁸² IRI, "Nationwide Poll."

¹⁸³ Michael A. Weber, Katarina C. O'Regan, and Nick M. Brown, "Countering Corruption Through U.S. Foreign Assistance," Congressional Research Service, May 27, 2020, <https://fas.org/sgp/crs/row/R46373.pdf>.

fail, but more that those who benefit have no incentive to change. The CRS report states that this is “particularly true with regard to systemically corrupt countries in which corrupt behavior is not an aberration but the entrenched norm across government institutions and the private sector.”¹⁸⁴ All of these concerns could be applied to an OTA program in the DRC, due to the systematic corruption. The CRS report findings apply to many foreign aid programs, but that has never stopped the U.S. from being successful at providing foreign resources. Furthermore, if the U.S. withholds foreign aid because of these concerns, the U.S. would lose some of its global influence, allowing other countries to fill the void.¹⁸⁵

Sanctions make splashy headlines and can be a way to make a point towards a particular issue or individual, but do not always work the way that the U.S. would like them too. Sometimes sanctions are no more than an admonishment politically, but effectively do not deter those individuals. Additional sanctions could also have consequences with individual’s political connections in the GDRC. Those individuals who are sanctioned, but have political connections, could jeopardize the other aspects of this proposal. Previous sanctions put on individuals for actions in the DRC occurred because of high level connections in the GDRC. The UN Security Council, as well as the United States, has had various arms embargos and sanctions on the DRC since 2003, and the problems in the DRC have persisted to this day.¹⁸⁶ There is also the risk that the U.S. could be considered involving themselves in another country’s business. Being accused of overstepping our jurisdiction can happen when the U.S. does any overseas action, but the positive thing is that the OTA program specifically gets country buy-in for the DRC. There is

¹⁸⁴ Weber, O’Regan, and Brown, “Countering Corruption.”

¹⁸⁵ Raphael S. Cohen, “Why We ‘Send Them Money’,” The RAND Blog, December 30, 2020, <https://www.rand.org/blog/2020/12/why-we-send-them-money.html>.

¹⁸⁶ Global Policy Forum, “Democratic Republic of Congo,” Global Policy Forum, <https://archive.globalpolicy.org/security-council/index-of-countries-on-the-security-council-agenda/democratic-republic-of-congo.html>.

always the risk of U.S. aid exacerbating corruption as well, which could be a risk for the OTA program, as it is assistance.¹⁸⁷ These local political connections are an additional reason as to why this proposal calls for increased anti-corruption regulation on foreign aid in conjunction with the assistance proposed.

IFFs are a problem that is not inherently political, in that, most people can agree that these actions are illegal and that the flight of capital hurts the countries in which it is occurring. However, there is still a more basic opposition that those, such as former President Trump, who opposed foreign aid in general. The opposition to foreign aid was brought up again during the debate over the December 2020 Covid-19 relief and omnibus spending bill, when certain Republicans asked to reevaluate U.S. spending on foreign aid programs, especially while the U.S. is in its own crisis.¹⁸⁸ It is in the U.S.'s self-interest to help foreign countries with aid, which is especially the current stance of the Biden Administration. Furthermore, the OTA program is relatively cheap compared to the overall budget of foreign assistance or even the \$2.3 trillion relief package.¹⁸⁹ Moreover, three parts of this proposal are implementing and increased enforcement of sanctions, as well as increased criteria for aid. These measures are showing that State and Treasury are trying to make sure the DRC is being held accountable for the foreign aid that is given from U.S. taxpayers. Combatting IFFs in the DRC, helps the U.S. and the worldwide financial systems.

VII. Recommendation

¹⁸⁷ Weber, O'Regan, and Brown, "Countering Corruption."

¹⁸⁸ Cohen, "Send Them Money."

¹⁸⁹ Ibid.

While this may not solve all the country's problems, the solution proposed in this paper should be enacted. Combatting illicit financial flows is a problem that has serious consequences for the world and sub-Saharan Africa. The IFFs problem is shared between low-, middle-, and high-income countries, so any policy that can help mitigate IFFs is worth implementing.¹⁹⁰ Focusing on the DRC, the U.S. can help with their programs and, with President Tshisekedi consolidating power, the DRC is in a good position to partner with the U.S. on strengthening their regulations. The U.S. can further its commitment to fighting IFFs, as well as publicize the work that State and Treasury are doing in the combatting IFFs area. In the long run, this policy will help the DRC to improve its own regulations, while still punishing the individuals who try to circumvent the law. The policy pros and cons are about equal but has very few political downsides and falls in line with current U.S. policy tools. It is implementable through existing programs, such as the U.S. sanction program, the PP4PP program between DRC and the U.S., and IMF loans.

The strongest pro of this policy is the OTA program to be implemented in the DRC. OTA programs have proven track records with the programs they have enacted. The OTA program is an excellent way to aid the local officials in owning their own regulations and has proven past projects.¹⁹¹ The DRC OTA program has a relatively low cost compared to other programs of this nature.¹⁹² The sanctions, while there are downsides, will help to keep individuals accountable who think they are above the law. In the least, it sends the message that the U.S. does not just ignore those who would try to exploit the U.S. and the world economy. The U.S. government needs to work with the DRC to address those who are bypassing U.S. sanctions. There are

¹⁹⁰ UNCTAD, "Tackling Illicit Financial Flows."

¹⁹¹ State Tax Service of Ukraine News, "The US Treasury's Technical Assistance Office: STS has made a significant progress in project management," State Tax Service of Ukraine, <https://tax.gov.ua/en/mass-media/news/457731.html>.

¹⁹² U.S. Department of the Treasury, "Department of The Treasury International Affairs Technical Assistance 2020 Report To Congress," 2020.

several high-profile cases that need to be addressed, such as the North Koreans, and the proposal at least gives a starting place to working through those issues.¹⁹³ At least highlighting the issue of IFFs with the U.S. and DRC will help the two countries cooperate more moving to forward. Strengthening anti-corruption and AML/CFT promises on foreign aid and loans helps make sure that the U.S. taxpayers' money is being managed correctly, and that the country is benefiting from the aid, not wrongful individuals.¹⁹⁴

Though there are many systematic issues in the DRC that cannot necessarily be addressed in one program or solution, the solution laid out in this proposal is one way to start mitigating the specific problem of IFFs. The DRC has internal historical issues and an ongoing conflict in the East, that the DRC itself is going to have to solve and there is only so much that the U.S. can do.¹⁹⁵ However, the U.S. continuing to help the DRC is a show of support, especially during a time when other countries are using foreign aid as leverage. The other important point in this proposal is the U.S. needs to move on appointing the positions of IMF director and U.S. Special Envoy for the Great Lakes Region, so that we prove the U.S. cares about these areas.

All measures proposed in the solution are well under the purview of the Treasury and State Department and build off existing initiatives. This solution ties into Goal 3, Objective 3.2 Anti-Money Laundering and Combatting Financing of Terrorism Framework of the Treasury Department Strategic plan to "Identify and reduce vulnerabilities in the U.S. and international financial system to prevent abuse by illicit actors."¹⁹⁶ State and the Biden-Harris Administration

¹⁹³ The Sentry, "Artful Dodgers."

¹⁹⁴ Weber, O'Regan, and Brown, "Countering Corruption."

¹⁹⁵ Bilateral Relations Fact Sheet, "Congo."

¹⁹⁶ Office of Strategic Planning and Performance Improvement, "Treasury Strategic Plan."

have additionally committed to working with the African Union, which the president of DRC is currently the African Union head. Working with the DRC to combat their IFFs is a further step to partner in “solidarity, support, and mutual respect.”¹⁹⁷ Enacting this proposal would be an excellent affirmation to the world that the U.S. is continuing to fight global issues, and just as the president said, “America is back, diplomacy is back.”¹⁹⁸

¹⁹⁷ Patsy Widakuswara, “Biden Signals New Tone on US-Africa Relations,” Voice of America, February 06, 2021, <https://www.voanews.com/africa/biden-signals-new-tone-us-africa-relations>.

¹⁹⁸ Joe Biden, “Remarks by President Biden on America’s Place in the World,” White House Brief, Speech, February 04, 2021, <https://www.whitehouse.gov/briefing-room/speeches-remarks/2021/02/04/remarks-by-president-biden-on-americas-place-in-the-world/>.

Curriculum Vita

Suzanne Mari Timmerman née Francis was born on August 30, 1992 in Fort Worth, TX. At the age of 12, Suzanne moved as a missionary kid with her family to France for a year and a half, then to Kinshasa, Democratic Republic of the Congo. She lived in the DRC until graduating from The American School of Kinshasa (TASOK) in 2011. Suzanne then attended Austin College in Sherman, TX, where she graduated in 2015 with a Bachelor of Arts, Majors in International Relations and History and a Minor in Leadership Studies. After college, Suzanne worked as a recent grad fellow at Anatolia College in Thessaloniki, Greece for a year. She apparently was missing the DRC, however, and moved back to Kinshasa with her husband who taught at TASOK for five years. While back in DRC, Suzanne worked as a substitute teacher at the school, then as a Locally Employed Staff at the U.S. Embassy in Kinshasa. In 2020, she accepted a direct hire position with the Department of State, where she currently works.